



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 17, 2018
MAHS Docket No.: 17-015366
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Denise McNulty

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, telephone hearing was held on January 3, 2018, from Detroit, Michigan. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Supervisor, and [REDACTED], Caseworker.

ISSUES

1. Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) benefits?
2. Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing recipient of FAP and MA benefits.
2. On August 28, 2017, Petitioner returned a completed redetermination to the Department. Subsequently, in September 2017, in response to requests for verifications regarding wages and assets, proofs were provided to the Department.

3. On September 28, 2017, the Department mailed Petitioner a Notice of Case Action notifying her that her FAP benefits would close because she exceeds the income limit for her group size. [Exhibit A, pp. 26-29.]
4. On September 28, 2017, the Department mailed Petitioner a Health Care Coverage Determination Notice notifying her that she is eligible for MA benefits with a monthly deductible. [Exhibit A, pp. 30-32.]
5. On October 18, 2017, Petitioner submitted a request for hearing that she subsequently withdrew on October 30, 2017. A pre-hearing conference was held on October 30, 2017. A new budget was calculated, after Petitioner submitted paycheck stubs, which resulted in a new MA deductible amount of \$ [REDACTED]
6. On November 15, 2017, the Department received Petitioner's second request for hearing disputing the Department's actions with regards to MA and FAP benefits. During the hearing, on January 3, 2018, Petitioner withdrew her request for hearing with respect to FAP benefits.
7. On November 27, 2017, a pre-hearing conference was held. At the conclusion of the pre-hearing conference, Petitioner indicated she wished to have an in-person hearing on the issues. Petitioner did not transmit that information to the Michigan Administrative Hearing System (MAHS), and the matter was scheduled as a telephone hearing. At the hearing, Petitioner withdrew her request to have an in-person hearing and chose to continue with the telephone hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department

of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner requested a hearing to address issues with her FAP and MA benefits. On September 28, 2017, the Department mailed Petitioner notices advising her that her FAP case would close and that her MA was approved with a monthly deductible. [Exhibit A, pp. 26-29, 30-32.]

FAP

At the beginning of the hearing, Petitioner withdrew her request for hearing with respect to FAP benefits. Petitioner indicated that she understood the Department's actions and no longer wished to have a hearing regarding her FAP benefits. The Department did not disagree with dismissal. The request for hearing with respect to FAP benefits is **dismissed**.

MA

Petitioner previously received MA benefits under the HMP program. Petitioner's income consisted solely of her employment income. On September 5, 2017, Petitioner submitted paycheck stubs and bank statements for the redetermination of her FAP benefits. The Department used that submitted information to redetermine her eligibility for MA benefits.

The Department concluded that Petitioner was not eligible for HMP because the household income exceeded the applicable income limit for her group size. Petitioner's household consisted of herself and two minor children. HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if his/her household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner was single and claimed two daughter as her dependents. The household for a tax filer, who is not claimed as at tax dependent, consists of: (i) the individual; (ii) the individual's spouse; and (iii) the individual's tax dependents. BEM 211 (January 2016), pp. 1-2. Therefore, in determining Petitioner's MA status, the Department properly considered Petitioner as having a group size of three.

133% of the annual FPL in 2017 for a household with three members is \$ [REDACTED]. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$ [REDACTED]. To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits,

and tax-exempt interest. AGI is found on IRS Tax Form 1040 at line 37, Form 1040 EZ at line 4, and Form 1040A at line 21. Alternatively, it is calculated by taking the “federal taxable wages” for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, child care, or retirement savings. This figure is multiplied by the number of paychecks the client expects in 2017 to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

The Department presented pay statements from Petitioner’s income from employment. Petitioner’s income from employment was the sole income of the household. The pay statements show that on August 17, 2017, Petitioner received payments in the gross amount of \$██████ on August 24, 2017, in the amount of \$██████ on August 31, 2017, in the amount of \$██████ on September 7, 2017, in the amount of \$██████. When calculating Petitioner’s income by averaging the payments received and multiplying by the expected number of paychecks in a year, her household income exceeds the income limit for a group of three. Additionally, Petitioner acknowledged she exceeds the income limit for a group of three at the time the paycheck stubs were submitted. Therefore, the Department acted in accordance with policy when it determined Petitioner was not eligible for HMP.

Persons may qualify under more than one MA category. BEM 105 (April 2017), p. 2. Federal law gives them the right to the most beneficial category. BEM 105, p. 2. The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. BEM 105, p. 2. Therefore, Petitioner’s eligibility under other MA programs will be assessed.

The Department testified that because Petitioner was the caretaker of two dependent children in her home, she was eligible for MA coverage under the Group 2-Caretaker (G2C) MA category. G2C is a Group 2 MA program. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105, p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the individual’s net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client’s shelter area (county in which the client resides) and fiscal group size. BEM 135, p. 2; BEM 544 (July 2016), p. 1; RFT 240 (October 2017), p. 1.

The Department presented a G2C MA budget for Petitioner showing that she would be subject to a monthly deductible of \$██████ [Exhibit A, p. 41.] The Notice of Health Care Coverage issued by the Department on September 28, 2017, states that Petitioner is eligible for MA benefits with a monthly deductible of \$██████. After the October 30, 2017, pre-hearing conference, the Department prepared another budget. It was determined that Petitioner was eligible for G2C MA benefits subject to an \$██████ deductible. Additionally, the budget shows that the Department used the incorrect fiscal group size when making its calculations. Use of the incorrect fiscal group size when calculating the

budget, resulted in the incorrect poverty income level (PIL) amount being used and an incorrect "remaining deductible." [Exhibit A, p. 25.] Thus, the Department failed to establish that it acted in accordance with policy when it determined Petitioner's deductible on her MA benefit case, as the Department did not use the correct figures when calculating the budget.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with policy when it determined Petitioner was not eligible for MA benefits under the HMP program. The Department failed to establish that it acted in accordance with policy when it determined Petitioner's monthly deductible on her MA benefit case.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Petitioner's eligibility under the MA HMP category and **REVERSED IN PART** with respect to the determination of the monthly deductible on Petitioner's MA benefit case.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's monthly deductible on her MA benefits as of October 1, 2017-ongoing; and
2. Notify Petitioner, in writing, of its MA decision.

It is further ORDERED, that since Petitioner testified that she was no longer contesting the Department's actions with respect to her FAP benefits; and she wished to withdraw her request for hearing with respect to FAP benefits; the request for hearing with respect to FAP benefits is hereby **DISMISSED**.



DM/jaf

Denise McNulty

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

Petitioner

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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